

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3074
Administrative Law Judge Division
October 25, 2001

R E S O L U T I O N

RESOLUTION ALJ 176-3074. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

ALJ/hkr

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

ALJ/hkr

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on October 25, 2001, the following Commissioners voting favorably thereon:

/s/ WESLEY M. FRANKLIN

WESLEY M. FRANKLIN
Executive Director

LORETTA M. LYNCH
President

HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3074 (10/25/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-09-042 CALPOINT (CALIFORNIA) LLC, for a Certificate of Public Convenience and Necessity to offer Resold and Facilities-Based Local Exchange, Exchange Access and Interexchange Telecommunications Services	Ratesetting	Ratesetting	NO
A01-09-043 ADVANCED AIRPORTER, INC., MINASAZI, BABAK, for Authority to Control Advanced Airporter, Inc., pursuant to Section 854 of the Public Utilities Code	Ratesetting	Ratesetting	NO
A01-09-044 SAN DIEGO METROPOLITAN TRANSIT DEVELOPMENT, for an order authorizing construction of two light rail vehicle tracks at grade on Alvarado Road west of the 70th Street station grade separated above Ward Road, Camino Del Rio North, Fairmount Avenue, and Alvarado Canyon Road/interstate 8 off-ramp, Alvarado Canyon Road east of Grantville Station, interstate 8 at Grantville Station, Canyon Crest Drive, Alvarado Road east of San Diego State University, Commanche Drive, Alvarado Road west, Alvarado Road east, interstate 8 in La Mesa, and Baltimore Drive; and grade separated below 70th Street, and interstate 8 off-/on-ramps, in the cities of San Diego and La Mesa, San Diego County, California	Ratesetting	Ratesetting	NO
A01-09-045 LODI GAS STORAGE, L.L.C., WESTERN HUB PROPERTIES, L.L.C., WHP ACQUISTION COMPANY, LLC, Joint; to Transfer Control of Lodi Gas Storage, L.L.C., to WHP Acquisition Company, LLC, which will occur Indirectly as a Result of the Purchase of Western Hub Properties L.L.C. by WHP Acquisition Company, LLC, pursuant to Public Utilities Code Section 854(a) and of Lodi Gas Storage, L.L.C. for Approval of a Secured Long-Term Financing pursuant to Public Utilities Code Sections 816, 817, 818, 823, and 851	Ratesetting	Ratesetting	NO
A01-09-046 WORKING ASSETS FUNDING SERVICES, INC., dba WORKING ASSETS LONG DISTANCE/WORKING, Joint, for Ex Parte Authorization under Public Utilities Code Section 854 to Transfer Control to Working Assets, Inc.	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3074 (10/25/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-09-047 EIGHT 9 LINE, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A01-09-062 CALIFORNIA WATER SERVICE COMPANY, (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the Bear Gulch district by \$1,948,100 or 15.1% in the year 2002; \$505,700 or 3.4% in the year 2003; \$450,800 or 2.9% in the year 2004; and by \$461,900 or 2.9 % in the year 2005 (N.01-09-049)	Ratesetting	Ratesetting	YES
A01-09-063 CALIFORNIA WATER SERVICE COMPANY, (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the Dixon district by \$142,800 or 14.0% in the year 2002; \$53,000 or 4.6% in the year 2003; \$45,500 or 3.7% in the year 2004; and by \$46,400 or 3.7 % in the year 2005; and by a CPI index in 2006. (N.01-09-050)	Ratesetting	Ratesetting	YES
A01-09-064 CALIFORNIA WATER SERVICE COMPANY, (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the East Los Angeles district by \$1,672,500 or 9.9% in the year 2002; by \$395,800 or 2.1% in the year 2003; by \$353,200 or 1.9% in the year 2004; and by \$362,100 or 1.9 % in the year 2005 (N.01-09-051)	Ratesetting	Ratesetting	YES
A01-09-065 CALIFORNIA WATER SERVICE COMPANY, (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the Hermosa-Redondo district by \$2,736,200 or 18.6% in the year 2002; by \$256,500 or 1.5% in the year 2003; by \$544,100 or 3.1% in the year 2004; and by \$554,100 or 3.0 % in the year 2005. (N.01-09-052)	Ratesetting	Ratesetting	YES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-09-066 CALIFORNIA WATER SERVICE COMPANY, (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the King City district by \$275,400 or 26.4% in the year 2002; by \$114,600 or 8.7% in the year 2003; by \$81,000 or 5.6% in the year 2004; and by \$82,300 or 5.4 % in the year 2005; and by a CPI index in 2006 (N.01-09-053)	Ratesetting	Ratesetting	YES
A01-09-067 CALIFORNIA WATER SERVICE COMPANY, (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the Livermore district by \$533,800 or 5.7% in the year 2002; by \$412,600 or 4.2% in the year 2003; by \$248,400 or 2.4% in the year 2004; and by \$253,500 or 2.4% in the year 2005 (N.01-09- 054)	Ratesetting	Ratesetting	YES
A01-09-068 CALIFORNIA WATER SERVICE COMPANY, (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the Los Altos district by \$1,632,300 or 14.6% in the year 2002; by \$596,700 or 4.6% in the year 2003; by \$537,500 or 4.0% in the year 2004; and by \$544.200 or 3.9% in the year 2005 (N.01-09-055)	Ratesetting	Ratesetting	YES
A01-09-069 CALIFORNIA WATER SERVICE COMPANY, (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the Mid- Peninsula district by \$2,076,400 or 12.1% in the year 2002; by \$909,100 or 4.7% in the year 2003; by \$1,320,200 or 6.5% in the year 2004; and by \$1,332,000 or 6.2 % in the year 2005 (N.01-09-056)	Ratesetting	Ratesetting	YES
A01-09-070 CALIFORNIA WATER SERVICE COMPANY, (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the Northern district by \$2,302,800 or 21.6% in the year 2002; by \$1,043,800 or 8.0% in the year 2003; by \$789,000 or 5.6% in the year 2004; and by \$800,700 or 5.4% in the year 2005 (N.01-09-057)	Ratesetting	Ratesetting	YES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-09-071 CALIFORNIA WATER SERVICE COMPANY, (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the Salinas district by \$1,353,600 or 12.4% in the year 2002; by \$1,112,300 or 9.1% in the year 2003; by \$745,100 or 5.6% in the year 2004; and by \$756,800 or 5.4% in the year 2005. (N.01-09-058)	Ratesetting	Ratesetting	YES
A01-09-072 CALIFORNIA WATER SERVICE COMPANY, (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the Stockton district by \$1,587,700 or 9.8% in the year 2002; by \$355,800 or 2.0% in the year 2003; by \$272,200 or 1.5% in the year 2004; and by \$276,300 or 1.5% in the year 2005. (N.01-09-059)	Ratesetting	Ratesetting	YES
A01-09-073 CALIFORNIA WATER SERVICE COMPANY, (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the Visalia district by \$1,044,000 or 11.7% in the year 2002; by \$329,800 or 3.3% in the year 2003; by \$121,700 or 1.2% in the year 2004; and by \$128,800 or 1.2% in the year 2005. (N.01-09-060)	Ratesetting	Ratesetting	YES
A01-09-074 CALIFORNIA WATER SERVICE COMPANY, (U 60 W), a corporation, for an order authorizing it to increase rates charged for water service in the Westlake district by \$1,017,700 or 14.0% in the year 2002; by \$225,800 or 2.7% in the year 2003; by \$221,100 or 2.6% in the year 2004; and by \$222,900 or 2.5% in the year 2005. (N.01-09-061)	Ratesetting	Ratesetting	YES
A01-09-076 CALIFORNIA WATER SERVICE COMPANY, (U 60 W), a corporation, for an order establishing Base Year 2000 revenue requirements in the Dominguez South Bay district pursuant to D.00-05-047 and D.00-10-027. Additionally, applicant requests approval to file an Application establishing post-merger rates for this district in 2002 (N.01-09-075)	Ratesetting	Ratesetting	YES

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NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-10-004 VERIZON CALIFORNIA INC., to Expand its Certificate of Public Convenience and Necessity to include Provision of Local Exchange Service as a Facilities-Based and Resale Carrier within the Service Areas of Citizens Telephone Company and Roseville Telephone Company	Ratesetting	Ratesetting	NO
A01-10-005 SAN DIEGO GAS & ELECTRIC COMPANY, (U 902-G), for Authority to Revise its Gas Rates Effective January 1, 2003, in its Biennial Cost Allocation Proceeding	Ratesetting	Ratesetting	YES
A01-10-006 ALAMEDA COUNTY TRANSPORTATION AUTHORITY, for an Order authorizing reconstruction of a crossing at separated grades between the Route 238 (Mission Boulevard) widening and the tracks of the Union Pacific Railroad Company sometimes referred to as the "South Niles Underpass," (PUC No.001D-30.4-B)	Ratesetting	Ratesetting	NO
A01-10-007 ALAMEDA COUNTY TRANSPORTATION AUTHORITY, for an Order authorizing reconstruction of a crossing at separated grades between the Route 238 (Mission Boulevard) widening and the tracks of the Pacific Locomotive Association sometimes referred to as the "North Niles Underpass," (PUC No. 004G-1.4B)	Ratesetting	Ratesetting	NO
A01-10-009 FONICA LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A01-10-010 TALKNOW, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A01-10-013 BAK COMMUNICATIONS, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A01-10-014 GLOBCOM INCORPORATED, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3074 (10/25/01)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A01-10-015 XTEL COMMUNICATIONS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A01-10-016 ALAMEDA CORRIDOR - EAST CONSTRUCTION AUTHORITY, for an order authorizing elimination of an existing at-grade crossing through construction of a grade separated crossing (roadway underpass) at East End Avenue, under Union Pacific Railroad Company's adjacent Los Angeles Subdivision and Alhambra Subdivision main lines, in the City of Pomona, County of Los Angeles	Ratesetting	Ratesetting	NO
A01-10-018 DYNALINK TELECOM INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO